

**THORPE SHWER, P.C.**

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**Attorneys for Defendants****UNITED STATE DISTRICT COURT****DISTRICT OF NEVADA**

CRISTIAN GARCIA-CHAVEZ, an  
 individual,

Plaintiff,

v.

J.B. HUNT CORP., J.B. HUNT  
 TRANSPORT, INC., ORLANDA  
 JOHNSON, and DOES I through X; and  
 ROE CORPORATIONS II through XX,  
 inclusive,

Defendants.

CASE NO.: 2:18-cv-00040

**DEFENDANTS' NOTICE OF REMOVAL OF  
 ACTION TO UNITED STATES DISTRICT  
 COURT UNDER 28 USC § 1441(a)**

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendants J.B. Hunt Corp. ("**J.B. Hunt Corp**"), J.B. Hunt Transport, Inc. ("**J.B. Hunt Trans.**") and Orlanda Johnson ("**Johnson**" with J.B. Hunt Corp. and J.B. Hunt Trans., the "**Defendants**") hereby file this Notice of Removal (the "**Notice**"). In support of its Notice, Defendants state as follows:

1. On December 12, 2017, Plaintiff commenced an action in the Eighth Judicial District Court, Clark County, State of Nevada entitled *Cristian Garcia-Chavez v. J.B. Hunt Corp., et. al.*, bearing Case No. A-17-766168-C.

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2. Defendants J.B. Hunt Trans. and J.B. Hunt Corp. were served with the Summons and Complaint on December 15, 2017 through its registered agent, CSC (Corporations Service Company). Defendants have been informed by Plaintiff that she desires to voluntarily dismiss J.B. Hunt Corp. with prejudice. To the extent that dismissal does not occur prior to this filing, J.B. Hunt Corp. is represented by undersigned counsel and consents to the Notice. Defendant Johnson has waived service and is represented by undersigned counsel in this proceeding.

3. This Notice is filed in the United States District Court for the District of Nevada within the time allowed by law for removal of actions to federal court. *See* 28 U.S.C. 1446(b)

4. The United States District Court for the District of Nevada is the district and division embracing the place where the state court action is pending. *See* 28 U.S.C. § 1441(a).

5. A copy of this Notice will be promptly served on counsel for Plaintiff and filed with the Clerk of the Eighth Judicial District Court, Clark County, State of Nevada. *See* 28 U.S.C. § 1446(d).

6. Undersigned counsel verifies that the documents attached hereto as **Exhibit A** are true and complete copies of all pleadings and other documents filed in the state court proceeding. These pleadings include the Summons(es), Complaint, Initial Appearance Fee Disclosure, and Affidavit of Service. *See* 28 U.S.C. § 1446(a).

7. There are no pending motions in the state court proceeding.

8. This action may be removed under 28 U.S.C. § 1441(a) because this Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332(a)(1). There is complete diversity between the parties and the amount in controversy exceeds \$75,000.

9. Defendant J.B. Hunt Corp. is a Delaware corporation, with its principal place of business in Lowell, Arkansas. As such, J.B. Hunt Corp. is a citizen and/or resident of the states of Delaware and Arkansas. J.B. Hunt Corp. is not a citizen and/or resident of Nevada.

10. Defendant J.B. Hunt Trans. is a Georgia corporation, with its principal place of business in Lowell, Arkansas. As such, J.B. Hunt Trans. is a citizen and/or resident of the states of Georgia and Arkansas. J.B. Hunt Trans. is not a citizen and/or resident of Nevada.

11. Defendant Johnson is a citizen and/or resident of the State of California.

THORPE SHWER, P.C.

12. Upon information and belief, Plaintiff is a citizen and/or resident of Clark County, Nevada. Exhibit A, Complaint at ¶ 2.

13. Plaintiff does not demand a specific amount of damages in her Complaint. However, Plaintiff alleges that he (1) “incurred, and will incur in the future, medical expenses in an amount to be proven at trial;” (2) “suffered injuries, all or some of which conditions may be permanent or disabling in nature, causing general damages;” and (3) suffered and continues to suffer a significant deterioration in Plaintiff’s enjoyment of life and lifestyle.” Exhibit A, Complaint at ¶¶ 21-23. Based upon communications with Plaintiff’s counsel, Plaintiff has allegedly incurred in excess of \$183,000 in medical expenses to date as a result of the accident at issue in this proceeding and is still receiving treatment. Accordingly, Defendants have a good faith belief that the damages claimed by Plaintiff exceed the \$75,000 jurisdictional requirement.

WHEREFORE, Defendants, respectfully requests that this action proceed in this Court as an action properly removed to it.

DATED this 9<sup>th</sup> day of January, 2018.

THORPE SHWER, P.C.

By /s/ William L. Thorpe  
William L. Thorpe  
Tyler J. Grim

AND  
MESSNER AND REEVES LLP

By /s/ Rene M. Finch  
Renee Finch

Attorneys for Defendants  
J.B. Hunt Transport, Inc. & Orlanda Johnson

**CERTIFICATE OF SERVICE**

I hereby certify that I am an employee of MESSNER REEVES LLP, and that on this 9<sup>th</sup> day of January, 2018, I served and filed a true and correct copy of the foregoing **DEFENDANTS' NOTICE OF REMOVAL OF ACTION TO UNITED STATES DISTRICT COURT UNDER 28 USC § 1441(a)** to all parties by the Court's electronic service system.

Jacob S. Smith  
Breanna K. Hartmann  
Henness & Haight, Injury Attorneys  
8972 Spanish Ridge Avenue  
Las Vegas, NV 89148  
**Attorneys for Plaintiff**

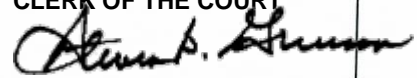
/s/ Bonnie O'Laughlin

An Employee of MESSNER REEVES LLP

THORPE SHWER, P.C.

# EXHIBIT A

# EXHIBIT A



**COMP**

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Nevada Bar No. 10231

BREANNA K. HARTMANN, ESQ.

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*Attorneys for Plaintiff*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

CRISTIAN GARCIA-CHAVEZ, an individual,

Plaintiff,

vs.

J. B. HUNT CORP., J.B. HUNT  
TRANSPORT, INC., ORLANDA  
JOHNSON, and DOES I through X; and ROE  
CORPORATIONS II through XX, inclusive,

Defendants.

Case No.:

Dept. No.:

A-17-766168-C

Department 4

**COMPLAINT**

COMES NOW Plaintiff, CHRISTIAN GARCIA-CHAVEZ, by and through his attorney, BREANNA K. HARTMANN, ESQ. of HENNESS & HAIGHT Injury Attorneys, and for his causes of action against Defendants, and each of them, alleges as follows:

**PARTIES AND JURISDICTION**

1. That at all times relevant to these proceedings, Plaintiff, CRISTIAN GARCIA-CHAVEZ was and is a resident of Clark County, Nevada.

2. That at all times relevant to these proceedings and upon information and belief,

1 Defendant, J. B. HUNT CORP., (hereinafter "J.B. HUNT") was and is a foreign corporation,  
2 organized and existing pursuant to the laws of the State of Arkansas and doing business in the  
3 County of Clark, State of Nevada.  
4

5 3. That at all times relevant to these proceedings and upon information and belief,  
6 Defendant, J.B. HUNT TRANSPORT, INC., (hereinafter "J.B. HUNT TRANSPORT.") was and  
7 is a foreign corporation, organized and existing pursuant to the laws of the State of Arkansas and  
8 doing business in the County of Clark, State of Nevada.  
9

10 4. That at all times relevant to these proceedings and upon information and belief,  
11 Defendant, ORLANDA JOHNSON, (hereinafter "Defendant JOHNSON"), was and is a resident  
12 of the State of California.

13 5. That at all times relevant to these proceedings and upon information and belief,  
14 Defendant JOHNSON, Defendant J.B. HUNT and Defendant, J.B. HUNT TRANSPORT, were  
15 and are agents, owners, managers, subsidiaries, and/or parent companies of one another, insofar  
16 that said Defendants were and are doing business collectively in the County of Clark, State of  
17 Nevada, as Defendant, J.B. HUNT TRANSPORTATION.  
18

19 6. Pursuant to NRCP 10(a) and *Nurenberger Hercules-Werke GMBH v. Virostek*, 107  
20 Nev. 873, 822 P.2d 1100 (1991), the true names and capacities, whether individual, corporate,  
21 associate or otherwise of Defendants named herein as as DOES I through X, and ROE  
22 CORPORATIONS I through X, are unknown to Plaintiff, who, therefore, sue said Defendants by  
23 said fictitious names. Upon information and belief, these DOE and ROE Defendants, and each of  
24 them, are responsible in some manner for the events and happenings upon which this action is  
25 premised, or of similar actions directed against Plaintiff about which Plaintiff is presently unaware,  
26 and which directly and proximately caused injury and damages to Plaintiff as herein alleged.  
27  
28

1 Plaintiff will ask leave of this Court to amend his Complaint to insert the true names and capacities  
2 of as DOES I through X, and ROE CORPORATIONS I through X,, when the same have been  
3 ascertained and to join such Defendants in this action  
4

5 7. That at all times mentioned herein, Defendants, and each of them were the agents,  
6 servants, partners and/or employees of each and every other Defendant, and were acting within  
7 the course and scope of their agency, partnership, and/or employment.

8 8. On or about December 22, 2015, Plaintiff CRISTIAN GARCIA-CHAVEZ was  
9 driving a 2004 Nissan Xterra southbound on Belmont Street near the intersection of Alexander  
10 Road, in North Las Vegas, Clark County, Nevada and slowed for traffic. At the same time and  
11 place, Defendant ORLANDA JOHNSON while in the course and scope of his employment, was  
12 driving an unregistered 2014 International tractor trailer truck VIN 3HSDJAPR0EN019906,  
13 owned by Defendants J.B. HUNT and/or J.B. HUNT TRANSPORTATION.  
14

15 9. Defendant JOHNSON, suddenly and without warning, placed the truck into  
16 reverse and backed up, striking Plaintiff's vehicle, and pushing Plaintiff's vehicle backwards  
17 approximately ten feet.  
18

19 **FIRST CAUSE OF ACTION**  
20 **Negligence— all Defendants**

21 10. Plaintiff hereby repeats and re-alleges all prior paragraphs of this Complaint as  
22 though fully set forth herein.

23 11. Defendant JOHNSON owed Plaintiff a duty of reasonable and ordinary care to  
24 ensure that his operation of the truck was not done in a negligent, careless, reckless, or wanton  
25 manner.  
26

27 12. That as result of Defendant JOHNSON'S decision to not exercise reasonable care  
28 while driving the truck on December 22, 2016, he collided with Plaintiff's vehicle and injured

1 Plaintiff.

2 13. That Defendant JOHNSON'S breach was the actual and proximate cause of  
3 Plaintiffs' injuries and damages.

4 14. Defendants J. B. HUNT and J.B. HUNT TRANSPORT owed Plaintiff a duty of  
5 reasonable care to insure that its trucks were not operated in a negligent, careless, reckless, or  
6 wanton manner.

7 15. Defendant J. B. HUNT and J.B. HUNT TRANSPORT breached this duty by  
8 imposing unrealistic time constraints on Defendant JOHNSON, thus facilitating and/or promoting  
9 negligence and careless, reckless, or wanton driving which resulted in Plaintiff's injuries.

10 16. Defendants J.B. HUNT and J.B. HUNT TRANSPORT chose not to ensure their  
11 drivers, including JOHNSON, followed and/or did not violate the limits set for hours driven and  
12 scheduled overtime work hours in excess of known safety standards and regulations.

13 17. Defendants J.B. HUNT and J.B. HUNT TRANSPORT consciously disregarded  
14 and allowed these violations to occur in order to increase its profit margin, by getting extra work  
15 from drivers, and negligently entrusting unskilled and/or inexperienced drivers to drive its  
16 company vehicles.

17 18. Defendants J.B. HUNT and J.B. HUNT TRANSPORT consciously disregarded  
18 regulations which were enacted to ensure drivers did not drive excessive hours. That decision  
19 contributed to the failure of Co-Defendant JOHNSON to fully and attentively operate the subject  
20 vehicle

21 19. That Defendants J. B. HUNT and J.B. HUNT TRANSPORT are vicariously liable  
22 to Plaintiff by virtue of the doctrine of *respondeat superior* in that Defendant JOHNSON was  
23 acting in the course and scope of his employment with Defendants J. B. HUNT and J.B. HUNT,  
24  
25  
26  
27  
28

1 TRANSPORT at the time of the subject collision.

2 20. Additionally, Defendant JOHNSON failed to comply with the traffic laws of the  
3 State of Nevada as provided by the Nevada Revised Statutes, and the violation was the legal  
4 cause of Plaintiff's injury and Plaintiff was a member of a class designed to be protected by these  
5 statutes. Therefore, Defendants are negligent per se for the collision and are further liable to  
6 Plaintiff for damages under this law.

7  
8 21. As a direct and proximate result of the negligence, carelessness and recklessness of  
9 Defendants, and each of them, Plaintiff incurred, and will incur in the future, medical expenses in  
10 an amount to be proven at the time of trial.

11  
12 22. As a further direct and proximate result of the negligence, carelessness and  
13 recklessness of Defendants, and each of them, Plaintiff suffered injuries, all or some of which  
14 conditions may be permanent or disabling in nature, causing general damages in an amount to be  
15 determined at trial, but which are in excess of \$15,000.00.

16  
17 23. As a further direct and proximate cause of the negligence of the Defendants, and  
18 each of them, Plaintiff has suffered and continues to suffer a significant deterioration in Plaintiff's  
19 enjoyment of life and lifestyle.

20 24. Plaintiff has been forced to seek the services of an attorney and Plaintiff is  
21 therefore entitled to recover his attorney's fees from Defendant.

22  
23 **SECOND CAUSE OF ACTION**

24 **Negligent Hiring, Training, Supervision, and Retention – Defendants J.B. HUNT and**  
25 **J.B. HUNT TRANSPORT**

26 25. Plaintiff hereby repeats and re-alleges all prior paragraphs of this Complaint as  
27 though fully set forth herein.

28 26. Defendants J.B. HUNT and J.B. HUNT TRANSPORT had a duty to exercise

1 ordinary and reasonable care in screening, hiring, and retaining employees that were qualified  
2 and suitable to perform their duties in a reasonable safe manner so as to protect others from  
3 unreasonable risk of harm.

4  
5 27. Defendants J.B. HUNT and J.B. HUNT TRANSPORT have a further duty to  
6 provide their employees with proper supervision and training so that those employees do not  
7 cause harm to the public while within the course and scope of employment.

8  
9 28. Defendants J.B. HUNT and J.B. HUNT TRANSPORT breached their duty by  
10 failing to properly hire, train, supervise, and retain Defendant JOHNSON, resulting in Defendant  
11 JOHNSON's negligent operation of the vehicle, which caused the subject collision to occur.

12  
13 29. The negligence, carelessness, and recklessness of Defendants J.B. HUNT and J.B.  
14 HUNT TRANSPORT in hiring, training, supervising, and retaining Defendant JOHNSON were  
15 the actual and proximate cause of Plaintiff's damages.

16  
17 30. As a direct and proximate result of the negligence, carelessness and recklessness of  
18 Defendants, and each of them, Plaintiff incurred, and will incur in the future, medical expenses in  
19 an amount to be proven at the time of trial.

20  
21 31. As a further direct and proximate result of the negligence, carelessness and  
22 recklessness of Defendants, and each of them, Plaintiff suffered injuries, all or some of which  
23 conditions may be permanent or disabling in nature, causing general damages in an amount to be  
24 determined at trial, but which are in excess of \$15,000.00.

25  
26 32. As a further and direct proximate cause of the negligence of the Defendants, and  
27 each of them, Plaintiff has suffered and continues to suffer a significant deterioration in  
28 Plaintiff's enjoyment of life and lifestyle.

33. As a direct result of the Defendant's negligence. Plaintiff has been forced to seek

1 the services of an attorney and Plaintiff is therefore entitled to recover her attorney's fees from  
2 Defendant.

3  
4 **PRAYER FOR RELIEF**

5 WHEREFORE PLAINTIFF PRAYS AS FOLLOWS:

- 6 1. Damages for costs of medical care and treatment and costs incidental therein, when  
7 the same have been fully ascertained, but which on information and belief are in excess of  
8 \$15,000;  
9  
10 2. For punitive damages to be decided by a trier of fact.  
11 3. General damages in an amount in excess of \$15,000.  
12 4. For reasonable attorney's fees and costs of suit incurred herein; and,  
13 5. For such other and further relief as the Court may deem proper.

14 DATED this 12 day of December, 2017.

15 HENNESS & HAIGHT

16  
17  
18 JACOB S. SMITH, ESQ.

Nevada Bar No. 10231

19 BREANNA K. HARTMANN, ESQ.

Nevada Bar No. 13889

20 HENNESS & HAIGHT INJURY ATTORNEYS

21 8972 Spanish Ridge Avenue

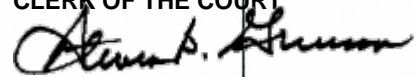
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24 *Attorneys for Plaintiff*  
25  
26  
27  
28

**IAFD**

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*Attorneys for Plaintiff*

**DISTRICT COURT****CLARK COUNTY, NEVADA**

CRISTIAN GARCIA-CHAVEZ,  
an individual,

Plaintiff,

vs.

J. B. HUNT CORP., J.B. HUNT  
TRANSPORT, INC., ORLANDA JOHNSON,  
and DOES I through X; and ROE  
CORPORATIONS II through XX, inclusive,

Defendants.

A-17-766168-C

Case No.:

Dept. No.: Department 4

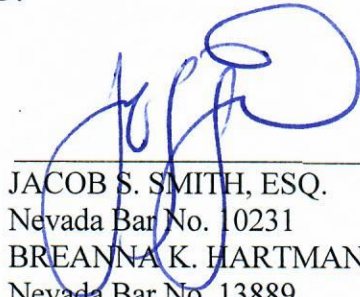
**INITIAL APPEARANCE FEE**  
**DISCLOSURE**

Pursuant to NRS Chapter 19, as amended by Senate Bill 106, filing fees are submitted for  
fees appearing in the above-entitled action as indicated below:

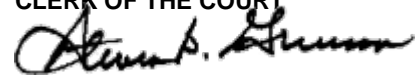
CRISTIAN GARCIA-CHAVEZ, individually \$ 270.00

**TOTAL REMITTED: \$ 270.00**

Dated this 12 day of December, 2017

  
\_\_\_\_\_  
JACOB S. SMITH, ESQ.  
Nevada Bar No. 10231  
BREANNA K. HARTMANN, ESQ.  
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*Attorneys for Plaintiff*

Electronically Filed  
12/18/2017 7:55 AM  
Steven D. Grierson  
CLERK OF THE COURT



1 AFFT

2 Henness &amp; Haight

3 Jacob S. Smith, Esq.

4 8972 Spanish Ridge Ave.

5 Las Vegas, NV 89148

6 State Bar No.: 10231

7 Attorney(s) for: Plaintiff(s)

DISTRICT COURT  
CLARK COUNTY, NEVADA

8 Christian Garcia-Chavez, an individual

9 vs

10 J.B. Hunt Corp; et al.

11 Plaintiff(s)

12 Defendant(s)

13 Case No.: A-17-766168-C

14 Dept. No.: 4

15 Date:

16 Time:

## 17 AFFIDAVIT OF SERVICE

18 I, Joe Ricondo, being duly sworn deposes and says: That at all times herein affiant was and is a citizen of the  
19 United States, over 18 years of age, licensed to serve civil process in the State of Nevada under license #604, and  
20 not a party to or interested in the proceeding in which this affidavit is made. The affiant received 1 copy(ies) of the:  
21 Summons: Complaint on the 15th day of December, 2017 and served the same on the 15th day of December,  
22 2017 at 10:36 am by serving the Defendant(s), J.B. Hunt Transport Inc. by personally delivering and leaving a  
23 copy at Registered Agent, CSC Services of Nevada, Inc., 2215-B Renaissance Dr., Las Vegas, NV 89119 with  
24 Frances Gutierrez, Customer Services Specialist pursuant to NRS 14.020 as a person of suitable age and  
25 discretion at the above address, which address is the address of the registered agent as shown on the current  
26 certificate of designation filed with the Secretary of State.

27 State of Nevada, County of Clark

28 SUBSCRIBED AND SWORN to before me on this

29 15th day of December 201730 Notary Public K.E. Murray

31 Joe Ricondo  
32 Affiant - Joe Ricondo # R-053662

33 Legal Process Service License # 604  
34 WorkOrderNo 1708709

